

Message Text

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ACTION ARA-10

INFO OCT-01 ISO-00 EB-07 SP-02 L-03 CIAE-00 DODE-00 INR-07

NSAE-00 PA-01 USIA-06 PRS-01 OFA-01 DLOS-04 DOTE-00

H-02 TRSE-00 SS-15 NSC-05 IO-10 INT-05 FMC-01 /081 W

----- 020413

R 121834Z JUN 75

FM AMEMBASSY NASSAU

TO SECSTATE WASHDC 6813

INFO COMDT COGARD WASHDC

CCGDSEVEN MIAMI

C O N F I D E N T I A L SECTION 1 OF 2 NASSAU 952

E. O. 11652: GDS

TAGS: EFIS BF

SUBJ: COAST GUARD ROLE IN SPINY LOBSTER ENFORCEMENT ROBLEM

1. COMMANDER COAST GUARD DISTRICT SEVEN, RADM WAGNER, ACCOMPANIED BY HIS LEGAL OFFICER AND TWO OTHER OFFICERS, CALLED ON AMBASSADOR TO DISCUSS MATTERS RELATING TO THE GCOB LEGISLATION WHICH DECLARED THE SPINY LOBSTER A CREATURE OF THE BAHAMIAN CONTINENTAL SHELF.

2. ADMIRAL WAGNER'S PRINCIPAL CONCERN, WHICH HAS BEEN SUBJECT OF CONTINUING EXCHANGE WITH EMBASSY, IS THAT ATTEMPT BY GCOB TO ENFORCE CONTINENTAL SHELF LEGISLATION COULD LEAD TO CONFLICT AS BETWEEN US FISHERMEN AND GCOB MARINE PATROL INTO WHICH USG COULD BE DRAWN, BUT EVEN MORE LIKELY AS BETWEEN US AND BAHAMIAN FISHERMEN, AGAIN INVOLVING USG. ADMIRAL WAGNER RAISED QUESTION AS TO WHETHER COAST GUARD WOULD NOT AT A MINIMUM HAVE RESPONSIBILITY FOR WARNING US FISHERMEN THAT FISHING IN GCOB CONTINENTAL SHELF AREAS AS OF AUGUST 1 OPENING OF NEW FISHING SEASON WOULD BE ILLEGAL. EVEN WITH SUCH WARNING, HOWEVER, ADMIRAL WAGNER FORESAW POTENTIAL FOR SERIOUS CONFLICT SITUATION SINCE, IN THE EVENT THAT GCOB GOVERNMENT OR PRIVATE GCOB INDIVIDUALS ATTEMPTED TO PRECLUDE US LOBSTER FISHING IN CONTINENTAL SHELF AREA, THIS COULD LEAD TO RESUMPTION OF SHOOTING INCIDENTS WITH PROBABILITY OF REPRISALS BY

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TION OF SHOOTING INCIDENTS WITH PROBABILITY OF REPRISALS BY

CUBAN ELEMENTS IN MIAMI AGAINST BAHAMIAN VESSELS WHICH UTILIZE MIAMI FOR REPAIR AND SERVICING.

3. AMBASSADOR AGREED THAT IT WAS ESSENTIAL TO MAKE EVERY EFFORT TO PRECLUDE DEVELOPMENT OF THESE CIRCUMSTANCES. HE THEN DESCRIBED TACTIC WHICH EMBASSY HAD BEEN CONSIDERING TO ACCOMPLISH THIS OBJECTIVE. ESSENCE OF APPROACH WOULD BE TO ENGAGE GCOB IN DISCUSSIONS ON IMPLICATIONS OF ENTIRE SPINY LOBSTER/CONTINENTAL SHELF ISSUE AS HAS PREVIOUSLY BEEN PROPOSED. PROSPECTS APPEAR GOOD THAT SUCH DISCUSSIONS MAY BE INITIATED IN RELATIVELY NEAR FUTURE. AT SAME TIME, AMBASSADOR ACKNOWLEDGED THAT IT WAS MOST UNLIKELY TALKS COULD BE BROUGHT TO SUCCESSFUL CONCLUSION PRIOR TO OPENING OF THE NEW SEASON. ACCORDINGLY, SCENARIO WHICH EMBASSY HAD IN MIND WAS TO APPROACH GCOB SHORTLY BEFORE ONSET OF NEW FISHING SEASON (E.G. JULY 15) REMINDING IT OF PREVIOUS EXPRESSION OF CONCERN OVER CONFLICT WHICH COULD GROW OUT OF GCOB ATTEMPTS AT ENFORCEMENT OF NEW LAW IN THE ABSENCE OF PRIOR GOVERNMENT-TO-GOVERNMENT AGREEMENT ON ALL IMPLICATIONS THEREOF. AMBASSADOR WOULD ARGUE THAT IN VIEW OF ONGOING DISCUSSIONS, WHICH HOPEFULLY BY THAT TIME WOULD HAVE DEMONSTRATED SOME PROGRESS TOWARD CLARIFICATION IF NOT RESOLUTION OF ISSUES INVOLVED, ENFORCEMENT BEYOND THE TWELVE-MILE CFZ SHOULD BE POSTPONED. AMBASSADOR WOULD ARGUE THAT US ACCEPTED SIMILAR POSTPONEMENT OF ENFORCEMENT OF ITS LAWS PENDING SATISFACTORY DISCUSSIONS WITH INTERESTED PARTIES (I.E., CANADA). AMBASSADOR EXPRESSED VIEW THAT THERE WAS AT LEAST A POSSIBILITY THAT GCOB WOULD AGREE TO SUCH A POSTPONEMENT IN ENFORCEMENT, ALTHOUGH THIS COULD NOT BE PREDICTED WITH CONFIDENCE. IF SUCH A POSTPONEMENT COULD NOT BE AGREED UPON, COAST GUARD WOULD BE EXPECTED TO PROVIDE WARNING TO US FISHERMEN NOT TO FISH IN CONTINENTAL SHELF WATERS, ALTHOUGH, AS PREVIOUSLY STATED, THIS WOULD PROVIDE NO ASSURANCE THAT CONFLICT SITUATIONS COULD BE AVOIDED.

4. AMBASSADOR EXPRESSED VIEW THAT IT WOULD BE PREMATURE AT THIS TIME TO WARN US FISHERMEN TO AVOID CONTINENTAL SHELF FISHING SINCE: A) FISHING SEASON DOES NOT BEGIN FOR TWO MONTHS, B) IF WORD OF NOTIFICATION GOT BACK TO GCOB IT MIGHT REDUCE PRESSURE ON IT TO AGREE TO A MORATORIUM ON ENFORCEMENT, AND C) THERE WERE SOME ELEMENTS OF AMBIGUITY WITH REGARD

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TO GCOB INTENT TO ENFORCE LAW ON AUGUST 1. (GCOB NOTE INFORMING USG OF NEW LAW SPEAKS OF A PERIOD OF WARNING PRIOR TO ENFORCEMENT WITHOUT SPECIFYING PRECISELY THE TIME ELEMENTS INVOLVED.) AN ADDITIONAL UNCERTAINTY RELATES TO GCOB PHYSICAL CAPACITY TO ENFORCE LAW OUTSIDE OF TWELVE-MILE LIMIT HERETOFORE SUBJECT TO SUCH ENFORCEMENT. (GCOB ENFORCEMENT CAPABILITIES ARE EXTREMELY LIMITED AND THE AREA COVERED BY CONTINENTAL SHELF IS EXTENSIVE.)

5. ADMIRAL WAGNER APPEARED TO FEEL THAT SCENARIO DESCRIBED BY AMBASSADOR WAS REASONABLE. HE EMPHASIZED, HOWEVER, THAT COAST GUARD WOULD REQUIRE GUIDANCE AT SOME POINT IN TIME SINCE FAILURE ON ITS PART TO WARN US FISHERMEN IN THE EVENT MORATORIUM WAS NOT ACHIEVED WOULD BE DIFFICULT TO EXPLAIN IF A CONFLICT INCIDENT AROSE OUT OF GCOB ENFORCEMENT MEASURES ON CONTINENTAL SHELF. ADMIRAL WAGNER ALSO NOTED ADDITIONAL COMPLICATION PRESENTED BY THE LACEY ACT WHICH, AS DESCRIBED TO AMBASSADOR, WOULD PRECLUDE LANDING IN US PORTS RESOURCES (SPECIFICALLY IN THIS CASE SPINY LOBSTER) UNLAWFULLY TAKEN FROM JURISDICTION OF ANOTHER STATE. THERE ARE APPARENTLY SOME AMBIGUITIES CONCERNING THIS LAW, WHICH HAS NOT BEEN IMPLEMENTED OR AT LEAST NOT IN RELATIONS TO CIRCUMSTANCES SUCH AS WE FACE IN THE SPINY LOBSTER/CONTINENTAL SHELF ISSUE.
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H-02 TRSE-00 SS-15 NSC-05 IO-10 INT-05 FMC-01 /081 W

----- 020557

R 121834Z JUN 75

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INFO COMDT COGARD WASHDC

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C O N F I D E N T I A L SECTION 2 OF 2 NASSAU 952

6. WE WOULD BE INTERESTED IF DEPARTMENT HAS COMMENTS ON TACTICS AND APPROACH DESCRIBED TO ADMIRAL WAGNER, OR INDEED HAS A PREFERRED ALTERNATIVE IN MIND. EMBASSY SHARES WITH ADMIRAL WAGNER (WHOSE CONSISTENT COOPERATION HAS BEEN OF ENORMOUS ASSISTANCE IN OUR EFFORTS TO WORK WITH GCOB) CONCERN THAT ISSUE LEFT UNRESOLVED COULD LEAD TO TROUBLE. THIS IS PARTICU-

LARLY TRUE IN THAT NEITHER USG NOR GCOB EFFECTIVELY CONTROL PRIVATE FISHERMEN ON BOTH SIDES WHO TEND TO BE HIGHLY VOLATILE PERSONALITIES. ON TOP OF ALL OTHER CONSIDERATIONS PREVIOUSLY MENTIONED, THE SLOW PACE OF MOVEMENT ON POLICY ISSUES OF THIS SORT WITHIN GCOB BUREAUCRACY PLUS THE EVER-POSSIBLE CONFUSION OF AUTHORITY AND RESPONSIBILITY AS BETWEEN VARIOUS ELEMENTS OF GCOB, INCREASE THE LIKELIHOOD THAT CONFLICT OVER ENFORCEMENT ATTEMPTS BY GCOB AUTHORITIES OR AS BETWEEN US AND BAHAMIAN PRIVATE FISHERMEN COULD OCCUR. WHILE WE HAVE REPEATEDLY EXPRESSED OUR CONCERN ON THIS SCORE TO GCOB, THE FACT REMAINS THAT THE HISTORICAL RECORD WILL NOT HELP VERY MUCH IF SHOOTING OR BOMBINGS OCCUR WITH CONSEQUENT PROPERTY DAMAGE AND/OR INJURIES OR WORSE TO INDIVIDUALS ON BOTH SIDES. ON THIS SCORE, ADMIRAL WAGNER EXPRESSED VIEW THAT HIS AUTHORITIES AND GUIDELINES FOR RESPONDING TO PRIVATE CITIZEN SHOOT-OUTS ON THE HIGH SEAS WERE CLEAR. THEY MAY NEED REVIEW AND RECONFIRMATION BEFORE OPENING OF FISHING SEASON.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: SHELLFISH, LAW, LOBSTERS, FISHING REGULATIONS, COAST GUARDS, TERRITORIAL WATERS VIOLATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 12 JUN 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975NASSAU00952
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D750205-0848
From: NASSAU
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750657/aaaabzpe.tel
Line Count: 193
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION ARA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 03 SEP 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <03 SEP 2003 by ElyME>; APPROVED <04 SEP 2003 by GolinoFR>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: COAST GUARD ROLE IN SPINY LOBSTER ENFORCEMENT ROBLEM
TAGS: EFIS, BF
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006